

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, January 24, 2001, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Russ Bayer, Jon Carlson, Steve Duvall, Linda Hunter, Gerry Krieser, Patte Newman, Greg Schwinn, Cecil Steward and Tommy Taylor; Kathleen Sellman, Ray Hill, Steve Henrichsen, Mike DeKalb, Jennifer Dam, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair, Russ Bayer, called the meeting to order and requested a motion to approve the minutes of the regular meeting held January 10, 2001. Carlson requested to delete the last sentence from the fifth paragraph on page 5. Newman moved to approve the minutes, with the amendment requested by Carlson, seconded by Hunter and carried 8-0: Bayer, Carlson, Duvall, Hunter, Krieser, Newman, Schwinn and Taylor voting 'yes'; Steward abstaining.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

January 24, 2001

Members present: Bayer, Carlson, Duvall, Hunter, Krieser, Newman, Schwinn, Steward and Taylor.

The Consent Agenda consisted of the following items: **USE PERMIT NO. 113A AND STREET AND ALLEY VACATION NO. 00023.**

Carlson moved to approve the Consent Agenda, seconded by Schwinn and carried 9-0: Bayer, Carlson, Duvall, Hunter, Krieser, Newman, Schwinn, Steward and Taylor voting 'yes'.

CHANGE OF ZONE NO. 3299
A TEXT AMENDMENT TO TITLE 27
OF THE LINCOLN MUNICIPAL CODE
TO ADJUST PERMITTED SIGNAGE IN THE
O-3 OFFICE PARK DISTRICT, AND ADJACENT
TO THE INTEREST IN THE H-1 INTERSTATE COMMERCIAL,
H-3 HIGHWAY COMMERCIAL AND H-4 GENERAL
COMMERCIAL DISTRICTS.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 24, 2001

Members present: Newman, Duvall, Schwinn, Taylor, Steward, Hunter, Carlson, Krieser and Bayer.

Planning staff recommendation: Approval.

Proponents

1. Mike DeKalb of the Planning staff presented the application. The Planning Department had received this request from the City Council. Council members and the administration agreed that there are some concerns that need to be addressed relative to the O-3 Office District along with some changes in the H-1, H-3 and H-4 Districts relative to signs. Last summer, the Planning Commission passed an amendment to the O-3 district that substantially increased the package of signage allowed and added some provisions for Council to adjust.

In the O-3 district, this proposal adjusts some of that increase back down on the wall face (the wall sign goes from 250 sq. ft. down to 150 sq. ft.)—those that are existing today are grandfathered; adds a provision that when it faces a residential district and is within 500' of a residential district, the sign will not be illuminated; prohibits electronically changing copy signs or message centers; and it eliminates the provision where Council may amend or adjust.

With regard to the H-1, H-3 and H-4 districts, there is currently a specific provision that allows additional signage when you are within 660' of the Interstate (higher and bigger signs). This amendment would delete that particular provision. It fits in with another package that will be coming forward to the Commission in two weeks relative to the Entryway Corridors.

Opposition

1. Bob Norris, President of Nebraska Neon Sign Company, testified in opposition. Norris only became aware of this proposal on Monday of this week. Therefore he is not

as prepared as he would like to be as far as details and data to back up his testimony. He believes that an explanation is owed to the property owners and businesses who will be affected as to why none of them were consulted, questioned, or made aware that these changes were coming forward, especially after we worked with the staff on the recently approved O-3 changes. This is a bit of a surprise and it has caught most of the businesses off-guard.

Norris believes that the proposed changes are detrimental to the affected property owners and businesses. Norris suggested that until staff has had the opportunity to sit down with the affected businesses and property owners, it is not unreasonable to set this proposal aside for an undetermined period of time.

Norris wants to know who initiated this proposal; was it as a result of some outcry of the community or was it a few specific people who think the regulations need to be changed? There is a reference in the staff report which states that the changes in the H districts "...reflect an entryway concept as reflected in the Comprehensive Plan." Norris is not familiar with that reference. The Entryway document is nothing but a proposed study that has not even officially been presented to the Planning Commission or the City Council. The depiction of what can happen on the interstate corridor in that Entryway document is not factual. The big signs they are showing cannot be located where they are being shown. They are showing a billboard that cannot even be placed within 660' of the Interstate. Norris requested the Commission to please keep in mind that many of these things are done for effect for the Commission benefit—not because they are wrapped in truth or fact.

Norris does not believe the community was given a fair opportunity to be well-prepared for this hearing.

2. Jack Thompson, Marketing Director for Nebraska Neon Sign Company, testified in opposition. He was involved in the changes made to the O-3 sign ordinance less than a year ago. He is interested in an opportunity to work with the staff and discuss why these changes are coming forward.

Bayer inquired what the normal process has been when we've changed the sign ordinance in the past. Norris believes that this is a very dramatic change. The impact in the highway districts is quite strong, where you are basically telling these people that the community wants them to be low visibility in a high traffic, high speed area where signs are typically bigger. Usually people are consulted when their property and property values are going to be affected. This does affect property values in those areas. If you don't want the petroleum marketers, the lodging people, the restaurant people, the automobile services people, and the trucking industry people to be out there advertising to the passing traffic on the Interstate, where are they to go to do business in Lincoln, if at all? Typically, when changes are that dramatic, the affected property owners and industries are consulted in

advance to determine how it might impact their business, etc. And Norris believes this is only fair. Typically, he has had conversation with the Planning and Building & Safety staff on other sign issues, such as the O-3 issue. They worked together to develop the changes to the O-3. We were all here in agreement less than a year ago that it was something that worked. It went to City Council. It was passed, signed and enacted. We have had activity based on that legislation with only one, possibly two, instances where somebody pushed the maximums. In most cases, they appreciated the additional leeway and it was beneficial to the community. If the businesses are going to be allowed in these zones, they are asking for the ability to be identified reasonably.

Newman asked whether the O-3 text was brought to the neighborhood associations during that process. Norris did not believe they did. They dealt with the staff and appeared at the public hearings.

Carlson clarified with Norris that this is not an outright elimination, but Norris is claiming that the reduction in height and the reduction in surface area does not allow for a reasonable opportunity to advertise. Norris concurred.

Thompson suggested that what really drives the total square footage are the large office buildings that have multiple tenants, which are businesses that under today's market conditions believe they need to have the ability to advertise, i.e. professionals, doctors, dentists, attorneys, stockbrokers—people like that who used to be able to “hang out a shingle”. Today it is a much more competitive market. All of the tenants were requesting signage and maybe two of the tenants would eat up the allotment. The total square footage of 250 was arrived at along with the 10% use of any wall surface to allow a large building to advertise for several tenants. The 10% rule would kick in and not allow any particular wall of the building to be overwhelmed with signage. No matter the size of the building, no more than 10% of it can ever be filled with signage.

Norris explained that they used the language that is in the commercial zones, but backed the square footages down to what was agreed upon as a reasonable size sign at the maximum. Carlson pointed out that Norris did say that there are signs that don't approach these maximums and seem to function quite well. Norris agreed, but he believes it is confusing to make the changes to the O-3 and the H zones in the same application. He doesn't understand the connection.

Relative to the office zoning, Steward asked when we came up with the concept that signs are building directories. Norris suggested that signs are an indication of who is in the building doing business. But Steward pointed out that there are hundreds of thousands of office buildings that don't have signs that function very well. Norris concurred. If all the users of office park offices were “back-shop” type operations with no need to identify themselves to the consuming public, then he would agree. Steward was thinking of higher density commercial districts that don't have signs—they have directories. Norris suggested

that these are a larger form of identification for the people who choose to be identified.

With regard to the Interstate, Steward believes that there are federal laws which determine location, size and height. He asked Norris whether he is suggesting that this legislation is less than or greater than those regulations. Norris stated that the current ordinance does not exceed any federal regulation. The current ordinance has been in existence since 1979, and has not changed as far as those signs are concerned. Steward believes we need to explore that federal definition.

3. Bob Hampton, Hampton Development Services, testified in opposition. He is developing property on both sides of Interstate 80 between 14th and 27th Streets. These signage amendments affect him directly and he received no notice. He has had a couple of plats going through and has tried to comply with the design standards that have never been formally adopted. He created his own restrictive covenants to try to meet the needs and desires of the Entryway study. These covenants dictate building design, building quality, signage and landscaping in much detail, and he is really disappointed if this change was in the works at that time and it was not discussed with him by the staff. Businesses locate out by the interstate because they want signage. The auto dealers are all starting to locate out there and Hampton thinks that is good—it groups those uses together and we can probably have higher quality signage and design. If these changes are made too drastically, it does hurt his property values and the desirability for people to locate out by the Interstate. These businesses want some visibility. The public deserves adequate and proper signage. There needs to be reasonable signage and standards. Lincoln has some pretty tough sign standards already. How many complaints do you hear directly about signage other than billboards? Hampton believes that Lincoln has some pretty good signage codes, but he believes they can be improved if we work together. Hampton likes to do developments that have nice signage and nice design, but it is imperative that we all work together. Hampton urged the Commission to place this legislation on pending until the business owners and developers can work with the staff.

4. Mark Whitehead, President of Whitehead Oil Company, testified in opposition to the H-1 configuration. High rise signs are critical for Interstate use types of businesses. Whitehead owns property immediately south and east of Interstate 80 on 27th Street. Whitehead was not aware of this text amendment and he notified Cracker Barrel and they had not heard about this text amendment proposal. Whitehead stated emphatically that if Cracker Barrel was not allowed to be able to identify itself on the Interstate with appropriate signage, they would not be at this location. It has been proposed that the high rise signs are not needed primarily because of the blue signs, but those signs are extremely expensive. His dealer at Interstate 80 and Hwy 77 cannot afford to be on that sign, so the only representation that he can have to Interstate travelers is via the signage that is on his property. Whitehead then displayed a picture of what the motoring public sees at Interstate 80 and No. 27th Street. 60% of Whitehead's business, especially in the summer, comes from non-Lancaster County businesses. The only way that the travelers

know that a particular use is on that interchange or a viable alternative, is by the signs identifying the use—not by the blue signs. Whitehead urged that not being able to identify their business is catastrophic, and the blue signs do not do it. The blue sign indicates some brands that are in the general vicinity, but those can be up to five miles away.

Steward asked whether Whitehead has had any interaction with the State Highway Department to get those blue signs corrected. Whitehead advised that the blue signs are erected by an independent company—not the state. If located within five miles of the Interstate, a business is eligible to have its logo on the sign at a cost. The sign on the Interstate itself does not reflect the distance of the use from the Interstate. You don't see that until you've exited the Interstate. It is not a viable way to identify the business. The reason that high rise signs are allowed in H-1 to begin with is for that recognition. If you're going to get people off the Interstate, they've got to know you are there.

5. Rob Otte, Attorney, 201 No. 8th, Suite 300, testified on behalf of **Anderson Ford**, who has the new Ford dealership going up on Interstate 80 and No. 27th Street. He also represents the developers of that entire tract now known as High Pointe North, a commercial subdivision. There are going to be a lot of automobile dealers out there. Otte's clients were surprised by this ordinance. Anderson Ford has all of its sign permits and will be allowed to put in their big tall sign. However, there is a significant amount of other development going on out there that will want the same signage for visibility. Otte has not had sufficient time to research the proposal to determine the impacts it will have. The process has been to encourage these automobile dealers to go out to the Interstate. You don't see automobile dealer signs on the blue highway signs. The motoring public deserves some of this signage. What we're looking at is Anderson Ford with a tall pole sign out there which they have a permit for, and none of the other automobile dealers will be allowed this same signage. Otte requested that this legislation be delayed to give him an opportunity to work with staff, along with the entryway design standards.

6. P.J. Morgan, 11124 Pierce Plaza, Omaha, testified in opposition on behalf of his client, **Husker Auto Sales**, who entered into a contract that has not been completed, but Husker Auto has a very serious concern about this legislation. Husker Auto wants to be certain they can build and invest probably close to 30 million dollars at this site, and wants to be on a level playing field with Anderson Ford (who already has a sign permit). When Husker Auto entered into the contract, it was assumed that they would be able to have the signage necessary to operate the business successfully at that location. Morgan requested that the Commission consider the dealerships by the Interstate and with the high speed traffic, it is important to have the signage.

7. Walt Pfeffer, with **P.J. Morgan Company**, testified in opposition. The Commission will be receiving a corridor entrance ordinance sometime in the near future. It may be appropriate that this sign ordinance come down with that ordinance, after everyone involved has a chance to participate and give their views so that the development

community, the citizens in Lincoln in general and the Planning Commission are given the opportunity to look at the total package and how it impacts everyone.

8. Loy Todd, Attorney for the **Nebraska New Car & Truck Dealers Association**, 701 South 13th Street, testified in opposition. The Nebraska New Car & Truck Dealers Association is a trade association representing approximately 240 new car and truck dealers in the State of Nebraska. The first notice that he had about this legislation was when he ran into Rob Otte at a school function. Todd was still today calling car dealers who are looking at moving to that site and had no idea that this ordinance was being proposed. In Lincoln, for years the manufacturers have been trying to get the dealers in Lincoln to upgrade their facilities—to build new stores, to move out of some areas and into others—and dealers have resisted that for several reasons. First of all, there is no place to go. Now, you've identified No. 27th and Interstate 80. But this is a significant change and he has not had the opportunity to give the association members adequate notice to come in and share their concerns. Todd also expressed concerns about dealing with the H districts together with the O-3 districts.

Steward asked Todd whether he would admit that by aggregating into a large market location there are some distinct advantages for shared marketing. Todd agreed that the bundling is good in some places, and then there is a theory about being unique and special. He has no authority to admit anything.

9. Mark Hunzeker appeared in opposition on behalf of **Hampton Enterprises** and **Holdrege Investors, L.L.C.** It was only last April that this Commission and the City Council approved the changes to the O-3 district. He has a feeling that he understands some of the rationale for at least a part of this, but he does not understand any reason that the staff would want to eliminate the possibility of the signage in the O-3 district being adjusted by the City Council pursuant to a use permit. That is a perfectly rational kind of provision that has been in all the use permits districts other than the O-3 since 1979, which has permitted some reasonable adjustment to the signage requirements for all that time. He does not know why anyone would need to restrict the size of a wall sign to less than 10% of the total area of a wall on a building. There are many instances in multi-tenant office parks where it is necessary to identify individual tenants in buildings. This is a situation where in most of these O-3 districts you have multiple smaller buildings with multiple tenants that need some means of identification for people to find them within an office park. The signage criteria that exists today is not unreasonable. If there is a need for review, there should be some input permitted by those directly affected. He is also not

sure about the rationale for eliminating all reader boards and message centers in this district. Hunzeker would like some opportunity to discuss the merits of this before it goes forward.

Response by the Applicant

Mike DeKalb stated that the Planning staff would not object to deferral.

Relative to process, DeKalb advised that when there is a change of zone on an individual property, the property owner and surrounding property owners are advised. But in the case of a text amendment, the Planning Department does not attempt to notify all property owners that could be affected. With regard to signs, typically, in the past, there have been individual initiatives by a member of the public and notice of the hearing is published in the newspaper. The same process is followed when the city initiates a text change. There have been major sign updates by committee in the past which came forward as a package.

As to impacts, with regard to the Interstate circumstance, DeKalb showed a map of the 660' where the current language allows a higher and bigger sign. The federal requirements dictate what the state can do, and the state has a package that allows more restrictive requirements by the city. The 660' was the State's maximum limits permissible under federal law at that time (1979). Local jurisdictions can have more restrictive applications if they choose to do so.

DeKalb clarified that this legislation does not take away signage allowed for the business; the base district still applies. The difference is 300'-350' in area and 80' height versus what would be allowed any other place in town in equivalent districts.

Relative to the O-3 district, DeKalb acknowledged that there was a lot of good faith effort by a lot of people to come up with a balance for the O-3 district. It did not have provisions for Council to amend previously. The industry came forward and wanted something in between commercial and what we've got. We tried to find a balance and give more flexibility. What has happened since that was adopted is that Council got a full-scale model and thought it was too big. Council also felt that having a wall sign face a residential area was inappropriate. Some members of the Council felt they were put into a tough circumstance and that is the reason this language is brought forward. This application reduces the total size area, gives additional protection when next to a residential area; eliminates the reader board; and removes language that allowed the City Council to do "either/or" or adjustments.

Carlson inquired whether the change in the H districts eliminates the option within the 660' or within the entire district. DeKalb stated that you have to be zoned and within the 660'.

Hunter observed that this regulation is designed to protect the Interstate corridor that immediately abuts the interstate. DeKalb concurred that it relates to fairly localized circumstances, typically around the interchanges. Historically, the taller bigger signs are allowed for the traveling public. That need, at least in part, has been remedied by the

federal and state allowing information and service signs on the interstate. There has been a continuing conversation relative to entryways to the city and appearance is part of this package.

Steward observed that some of our critical view corridors may intersect some of these areas and he doesn't think there is language about view corridors included that makes a distinction irrespective of the changes proposed. Steward inquired whether there would be another overriding issue by view corridors that would take precedence. DeKalb's response was that with regard to Capitol View Corridors, an overlay district was adopted on West Capitol Parkway between downtown and Capitol Parkway that prohibits billboards to protect that corridor. The other Capitol View Corridors, Hwy 77 and coming in from the west on "O" Street, have very limited applicability in this sense in that most of the signs would be buried in the silhouette of the city.

With the fact that the entrance corridor planning is near completion, Steward inquired whether there would be consideration for holding the H District portion of this application and bundling it with the review of that plan. DeKalb stated that the staff would have no objection and believes it makes good sense to put this application on pending until that entryway package comes forward.

Carlson asked whether the O-3 issue can be separated from the H issue. Rick Peo advised that the application would have to be amended to delete the H portion in order for the O-3 portion to go forward. A new application would have to be resubmitted for the H districts when they came forward.

Bayer wanted to know the motivation for this proposal. It would appear that a City Council member or members decided this was a priority. DeKalb stated that the application was initiated by the Planning Department.

Duvall moved to place Change of Zone No. 3299 on pending, seconded by Krieser and carried 9-0: Newman, Duvall, Schwinn, Taylor, Steward, Hunter, Carlson, Krieser and Bayer voting 'yes'.

CHANGE OF ZONE NO. 3300
FROM AG AGRICULTURAL TO H-3 HIGHWAY COMMERCIAL
ON PROPERTY GENERALLY LOCATED
AT N.W. 84TH AND WEST "O" STREETS.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 24, 2001

Members present: Newman, Duvall, Schwinn, Taylor, Steward, Hunter, Carlson, Krieser and Bayer.

Planning staff recommendation: Approval.

Proponents

1. **Britt Ehlers**, 1201 Lincoln Mall, Suite 102, testified on behalf of Larry and Linda Lewis. Ehlers suggested that the staff report on this matter is very thorough and provides the background. This property is located at the corner of West "O" and N.W. 84th Street. The property currently owned by the applicant is zoned H-3 and forms an L at the northwest corner of that intersection. This application would square off that piece of property and assist the Lewis's in their ability to run their business, Nebraska Truck Company.

As far as adverse effects, Ehlers contended that there are none. The property is currently graveled with crushed rock and used for parking, and this is anticipated to be its continued use. It is a small parcel of approximately .9 acre and there is adequate infrastructure present. It does not destroy any natural habitat. Other additional consideration is that it is used primarily for truck parking. The applicant has been careful to have this parking on the back side of the building and thus it is not a hindrance or harmful in any manner aesthetically.

Ehlers advised that this piece of property is currently subject to a purchase agreement conditioned upon approval of this change of zone. There has been an application for administrative plat filed.

Hunter inquired whether this is for an expanded use. Ehlers advised that it will be used for parking as it is currently used today. His client wants to own the property and bring it into compliance.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

January 24, 2001

Steward moved approval, seconded by Hunter and carried 9-0: Newman, Duvall, Schwinn, Taylor, Steward, Hunter, Carlson, Krieser and Bayer voting 'yes'.

USE PERMIT NO. 136

FOR A 51,122 SQ. FT. OFFICE BUILDING

ON PROPERTY GENERALLY LOCATED

AT 80TH & "O" STREETS.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 24, 2001

Members present: Newman, Duvall, Schwinn, Taylor, Steward, Hunter, Carlson, Krieser and Bayer.

Planning staff recommendation: Conditional Approval.

Ray Hill of Planning staff submitted a late report from Health Dept. that finds no serious negative environmental health impacts. They do note, however, the impact of additional parking and runoff from additional parking lots.

Proponents

1. Mark Hunzeker appeared on behalf of the developer of this project. Three years ago they came forward with a proposed change of zone on property adjacent to this and at that time they were joined by a number of neighbors to the south who owned residential property abutting the proposed office building who were very concerned about the potential impact of an office building on that site, including drainage, potential impact on property values and appearance. During this project's initial stages, Jerry Joyce met with the neighbors and took to heart all of the neighbor's comments. Joyce solicited the help of abutting commercial property owners to allow him to solve the existing drainage problem. He worked individually with each of the abutting residential owners to work out landscaping and buffering along the south boundary. Some of the most vociferous opponents of the initial project have become very friendly toward this project. The appearance of the project has evolved in a very favorable manner and the relationship with the abutting property owners went from very bad to excellent. This is a good example of what can be done on an infill site if a lot of effort is put into it.

This project is a proposal to build a virtual twin of the existing building. The attempt is to provide a more intense landscaping treatment on the front of both the parking lot along "O" Street and immediately adjacent to the building, as well as to provide a very intense landscaping treatment as it abuts the residential neighbors. They had a meeting and invited all of the abutting residential neighbors again. Those who did attend gave no

negative feedback. This building will provide a noise buffer from “O” Street and the additional landscaping will also provide a buffer. This project will clean up what has been kind of a weedy low area which holds occasional water and tends to be a “hang-out place” for people who don’t need to hang out in the rear of those residential properties.

Hunzeker pointed out that the staff thought they were too close to the property on the west, so they adjusted and moved the building to the east and are in compliance with the side yard setback on the west.

Hunzeker’s only proposed amendment to the conditions of approval was Condition #2.1 to eliminate 45,000 sq. ft. and substitute 51,122 sq. ft. for the office building. There is no standard in the O-3 that dictates a lower building coverage. He concurred that they will not have enough parking for medical offices, but that is not the kind of tenant they anticipate.

Opposition

1. Robert Wright, 211 East Cherrywood, testified in opposition. He opposed the original proposal for the Lot 59 development simply because he thought it was too big. The neighbors thought an office park was a pretty good idea. But, what we wound up getting was a large tall building shoe-horned into the small lot that was there. There were many exceptions made for that approval. Wright showed a map of the original approval – a large building on Lot 59 and two smaller 10,000 sq. ft. buildings on the other two lots. The only use permit granted was for the large building. Now this proposal is for another large building that is going to be jammed in there. There is an attractive office park across “O” Street that includes three or four smaller buildings and that was all very well done. To the west abutting the Maple Village area is the Hampton Development on the south side of “O”, very attractively done. He cannot see that you call this an office park where you have two large buildings shoe-horned into a very small area, with practically every piece of available ground paved with a parking lot. Wright objects to the idea of an office park – this does not come anywhere close to it. It may not cause problems for his property and the abutting owners may adjust to the towering buildings in their back yard, but he knows that a landowner is supposed to be able to make reasonable use of his property and he does not consider this reasonable. It is too big.

Steward asked the applicant to explain the rather unusual language in the proposal description, “...providing a unique solution for the screening.” What is making this unique? Hunzeker responded that along the “O” Street side they are providing a very heavy landscape screen. There will be a fence along the front similar to the fence that is in place, but it will also be broken up by a landscape screen all the way along the front of the property, which they were not able to do with the other building. There will be brick pillars for the fence and some plantings.

Bob Schoenleber, architect for the project, added that the intent of the landscaping was to create something a little bit less strict. The idea is to use some plant materials that one would not normally see in the front yard screen—grasses, roses, color--and then mix that into a fence sign element that could be tied into the building.

Hunzeker added they are requesting a waiver of a portion of the front yard requirement, and one of the reasons for that is to have a different landscaping treatment because the more we can do in front of the building, the less parking gets pushed into the rear yard. The entire project was pushed all the way to a zero setback on "O" Street to the existing building to provide a bigger setback on the residential side to the south. This gave them the ability to provide a detention cell within the parking lot. Here they wanted to do softer treatment on the front of the building. The neighbors were approving of this.

Steward is concerned about the visual separation between the private residences and the parking lot. Schoenleber stated that they are not trying to do 200' of lineal fence. They want to stagger it to allow some of the landscaping to be put on the residential side. Steward inquired about the planting distance between the two fences. Schoenleber stated that a retaining wall at the parking area on the south is shown as a decorative block retaining wall. That block retaining wall is for the retention area and holding the water on site. It will go below curb height. Hunzeker added that it drops the parking area below grade. The retention area goes down below where the fence is. This refers to the southwest corner of the site. Hunzeker assured that the fence will not be just a solid wall. They will have the ability to get between those areas and have plantings on both sides of the fence all the way.

Hunzeker concurred that in their initial take three years ago, there were three buildings shown on the site. Part of the reason for that was that at that time there were three owners of the property. One parcel was under one ownership; we had an intervening owner with an older home on one parcel; and then a third owner who had held the property for 30-40 years with anticipation of commercial development. With those separate ownerships and the setback requirements and access requirements, without the ability to cross property lines, it was almost impossible to build what is being proposed. We showed what we could show at the time. With the sale of the middle property and the acquisition of the final parcel, we thought that everyone would be happier with a twin to what we now have as opposed to trying to put kind of a "Mutt and Jeff" approach in there side by side. He believes this will be a much more attractive project.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

January 24, 2001

Hunter moved to approve the Planning staff recommendation of conditional approval, seconded by Newman.

Duvall moved to amend Condition #2.1 to 51,122 sq. ft., as requested by the applicant, seconded by Schwinn.

Hunter believes that the square footage recommended by staff relates to the FAR requirements. Ray Hill explained that the 45,000 sq. ft. relates to the same FAR that was granted to the owner on the office building to the east. All staff is saying is that the building size is greater than the project to the east. Rather than increase the intensity as you move away from 84th and "O" we should stay at least equal to, and not more.

Hunter believes that the intended uses are probably desired but not necessarily known. If it should wind up being a physician type office, there may be a need for additional parking.

Bayer was guessing that the applicant is requesting 51,122 sq. ft. because that is what they need to make this work. They have done an excellent job on the property to the east.

Motion to amend Condition #2.1 to 51, 122 sq. ft. carried 6-3: Duvall, Schwinn, Taylor, Carlson, Krieser and Bayer voting 'yes'; Newman, Steward and Hunter voting 'no'.

Newman had serious misgivings about this because it is so close to the residential area. It is a lovely building, she likes the frontage road idea and she thinks it will be a great project. However, she would like to see matching buildings.

Motion for conditional approval, as amended, carried 9-0: Newman, Duvall, Schwinn, Taylor, Steward, Hunter, Carlson, Krieser and Bayer voting 'yes'.

SPECIAL PERMIT NO. 1892

FOR A WIRELESS COMMUNICATIONS FACILITY,

WITH A REQUEST TO WAIVE THE FALL ZONE,

ON PROPERTY GENERALLY LOCATED

AT NO. 7TH STREET AND FLETCHER AVENUE.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: January 24, 2001

Members present: Newman, Duvall, Schwinn, Taylor, Steward, Hunter, Carlson, Krieser and Bayer.

Planning staff recommendation: Denial.

Jennifer Dam of Planning staff submitted additional information, including a letter in opposition; a letter from the Lincoln Airport Authority reporting that the FAA study indicates that the proposed tower would not be a navigation hazard; a letter from Qwest to Western Wireless; and a petition containing 17 signatures in opposition.

In addition, Dam advised that she did talk with Western Wireless regarding an update on the potential collocation process. Western Wireless has sent Qwest an email requesting that Jill Bazzell talk to their regional manager to request a site walk; that is will be necessary to obtain landowner permission; and that Western Wireless has sent leasing documents to Qwest indicating that the rental rate proposed is based on several collocation rates that are currently being used in Lincoln and that the rate is negotiable.

Proponents

1. Jill Bazzell of Qwest Wireless testified on behalf of the applicant. They were here two weeks ago to discuss the three other towers in the area and explained that Qwest had ruled out collocation on all three existing towers for technical, legal or economic. reasons.

With regard to the Alltel tower, Bazzell again explained that Qwest had received an administrative permit for collocation, but before doing that AT&T went on that tower and the structural analysis failed.

The Sprint tower is ruled out for technical reasons and because it is too short.

Western Wireless is also ruled out for technical reasons. Two weeks ago, Qwest provided this technical information and those reasons still exist today with further engineering evidence. Bazzell noted that the staff conclusion implies that good faith efforts have not been demonstrated because Qwest has not completed the real estate

inquiries with Western Wireless. Qwest accepted a two week delay to see if they might receive information from Western Wireless. But, regardless of the lease information, the Western Wireless tower does not work from a technical standpoint and Qwest cannot and will not collocate on the Western Wireless tower. Section 27.68.100(b) states that "... an application to construct new towers may be denied if the applicant has not shown by substantial evidence that it has made a good faith effort to mount the facilities on an existing structure and/or tower." Bazzell submitted that Qwest has indeed shown substantial evidence as to why they cannot locate on these three towers.

Bazzell further cited from section 27.68.100(c), "Locations in sensitive location sites shall be considered only if the applicant: (1) Provides evidence showing what good faith efforts and measures were taken to secure a preferred location site or limited preference site within one-half mile of the proposed facility,...". Bazzell acknowledged that all three existing towers fall within the one-half mile, and she submitted that Qwest has shown why none of those towers work.

Section 27.68.100(c)(2) also provides that the applicant must, "Demonstrate(s) with engineering evidence why each such preferred location site or limited preference site was not technologically, legally or economically feasible." Corby Dill, Qwest Wireless RF Engineer, then again explained the technical reasons why the Western Wireless facility will not work. He submitted computer simulations of coverage from the Western Wireless site and the proposed Qwest site. The proposed Qwest site (Lin27 on the computer simulations) would greatly expand their coverage footprint. It provides expanded coverage down towards the Adams Street area.

Steward confirmed with Dill that the determination of desired coverage is entirely the decision of Qwest as a corporate entity. Dill concurred. He is given basic guidelines by the Qwest corporate office as to coverage objectives. Within their general boundaries Dill is expected to have a certain level of coverage in the area. Qwest strives for 90% coverage on all the main streets to maximize marketing capability. Steward sought confirmation that there would be little to no public input into the force of that decision. Dill believes that marketing has input based on marketing studies. But, Steward noted that a predetermination does not result from a community survey. Dill could not speak as to what the procedures or policies were previous to his time.

Hunter inquired whether there is equipment that reaches further than this. Dill's response was that reaching further is not necessarily a good thing. The equipment that Qwest puts on a tower can only handle so many phone calls at a time. We have a goal as to the expected amount of subscribers. Each site has a certain capacity based on the area that it covers.

Hunter then discussed the difference in power of a cell phone that you use alone versus the same cell phone plugged into a car unit. There is more power when it is plugged into

a car unit. "What that specifically means is, if I am calling by hand, I can only reach out to certain area, but if I put that same phone in something that escalates the power, I have extreme coverage." If Qwest "upsized" its equipment, would they get more coverage with less towers? Dill suggested that the approach to take would be to increase capacity per site. Increasing range is not a problem, but the capacity that each site can handle is the limiting factor based on technology.

Opposition

1. Arlon Bartels, whose property adjoins the property where the tower would be located, testified in opposition. This tower will be in his front yard. He does not think anyone would like to have one in their front yard. It was clarified that the tower is not on his property, but he will see it from his front yard. Bartels lives on five acres and he is surrounded by 5- and 10-acre parcels.

Staff Questions

Bayer asked whether the staff is still recommending denial based upon Qwest's testimony today. Dam's response was that she just received the documentation today and has not had an opportunity to review it. The city always has the option to have a professional engineer review the documentation to see if they concur with the coverage objective. Dam still believes they have an opportunity for collocation.

Schwinn believes that according to federal regulations, if they need that coverage and they have made every attempt to collocate and decided they cannot, then they do get a site someplace in this area. Dam understands the regulations to say we can't keep somebody out—we need to provide some coverage but it does not need to be perfect coverage.

Taylor asked staff to explain why staff does not believe Qwest has put forth a good faith effort. Dam does not believe they have completed negotiations with Western Wireless. The information that was provided by Western Wireless is that all preliminary approvals have been completed and the lease information has been sent to Qwest, but Qwest has not scheduled a site walk at this time or reviewed or negotiated the specifics on the lease. Western Wireless indicates that collocation is an option.

Steward observed that our regulations do not particularly make any distinction for acreage environment. Dam concurred.

Response by the Applicant

Jill Vinjamuri, counsel for Qwest Wireless, gave rebuttal on behalf of the applicant. The Federal Telecommunications Act of 1996 places limitations on local governments for the regulation, construction and placement of wireless facilities. There can be no

unreasonable discrimination between different carriers; no unreasonable delay in the processing of applications; and if an application is going to be denied, it must be in writing and supported by substantial evidence by the local government. Vinjamuri believes there is some confusion between what the staff is saying and the evidence presented by Qwest. What Qwest provided two weeks ago, with further substantiation today, is that collocating on the Western Wireless tower absolutely does not meet the coverage they need and they could not and would not locate on that tower. It would not provide them with an overall coverage in the City of Lincoln. And, specifically, not having coverage on one of the major corridors into Lincoln would not make Qwest competitive with the other carriers that are already here. It would be a case of not letting Qwest compete and unreasonable discrimination if Qwest is never allowed to have similar coverage as the existing carriers.

Vinjamuri went on to state that two weeks ago Qwest presented the same RF reasons why the Western Wireless site would not work and there is no rebuttal evidence from an RF engineer. Speculation from staff is not, under the federal guidelines and federal regulations, enough to rebut the testimony already offered by Qwest.

Vinjamuri also pointed out a site that was approved by this board at 17th & Windhoek in an area where there were already three existing towers (a 911 tower, a State Patrol tower and the Time Warner tower). Qwest, for certain reasons, had to construct a fourth tower. At that point, the staff recommendation was that a fourth tower would not have a major impact on that area because it would actually cluster the towers and have a vertical mass of existing structure. That was viewed then as a more positive impact rather than having the towers spread out. Vinjamuri suggested that an application approved on that basis for one tower and then denied for the other without further evidence, under at least the federal guidelines, would be difficult.

Hunter pointed out that there are no residential acreages at the 17th & Windhoek location. Hunter believes we're talking about the difference between "open space" and "not open space". We're talking about "industrial" versus "acreages". There is a difference. Vinjamuri's response was that there has been no evidence presented that this fourth tower (which is substantially further away from the Interstate than the other three towers) would have such a negative impact.

Hunter believes the applicant is mistaking the difference. The offensiveness of someone having to look at a 120' tower out their front door is not an issue in an industrial area where there are industrial buildings and probably not residences. Hunter took issue and stated that there is a definite difference between the two locations in comparing clustering and not clustering. Vinjamuri does not believe there is enough evidence in this record to support that difference. There are acreages; there are three other towers there; there has been no direct evidence about it,

Steward was not present at the last meeting but he did review the minutes. It appears to

him that the discussion at the last meeting largely focused on the question of whether or not Qwest had, in good faith, attempted every effort to collocate—not whether or not Qwest had presented technical reasons from Qwest's own point of view of whether that was not a desirable circumstance. Now you present maps (which may or may not be authenticated) indicating that it is a technical circumstance. Steward takes objection to the notion that the city has not shown any viable reason to further delay this. Vinjamuri's response was that collocation involves two elements. It involves the real estate element and a technical element. Steward believes it also involves an economic element. Vinjamuri concurred. In this situation, it would be Qwest's position that if they could collocate at one of those three towers, it would be a much more desirable outcome economically. All the evidence supports that Qwest was ready to and would have liked to have been on the Alltel tower. But, that tower was not built to carry more than one collocation. Had it been built the way the Qwest tower is proposed (to carry three), Qwest would be on that tower and operational right now. If the Western Wireless tower would work, that would definitely be a much more feasible outcome for Qwest. We wouldn't have the cost of a \$35,000 pole, foundation, building costs, delays, etc. But to not have the coverage in one of the most major corridors into the city would not make us competitive.

Taylor summed up his understanding, i.e. if Qwest did locate on the Western Wireless tower, their signal would be somewhat inferior and would not accomplish Qwest's intent and needs. If Qwest wanted to accept an inferior situation, then the Western Wireless collocation would work, but Qwest wants a situation that is going to work to reach the customers they want to serve. Vinjamuri agreed.

Carlson asked whether there are "before and after" pictures of the sight line available in relation to the acreage properties. These pictures were not available. Bazzell explained that in this application they were trying to show the tower in relation to the other towers as opposed to the acreage property owner. Carlson was trying to get a sense of mitigating possibilities on this particular site. Dill offered that the Qwest tower is considerably shorter than the Alltel tower and that property owner should already be able to see the Alltel tower. Carlson referred to the pictures and asked whether it is the Qwest antenna that is the one nearest to the ground. Dill clarified that they have two different heights on this one. There is considerable room for other locators. The additional height is the sectors facing to the north to extend the footprint. Generally, they are used to extend out into the more rural areas and then west on Hwy 34. The sector facing in towards Lincoln is lower for capacity issues. Carlson confirmed that the reason they can do the higher, more powerful tower is because their capacity needs in that direction are anticipated to be less. Dill concurred that capacities in the rural area are much less than in the urban area.

Bayer referred to the coverage map submitted with this application. Site 21 (the site in question)—if you go south of that site where you see Belmont, there seems to be a gap in there that has no coverage. Bayer wondered whether Qwest will ultimately need to put a tower somewhere to cover that area that is not covered. Dill suggested that is making

the assumption that this map is showing actual coverage. These maps could have been done a little conservatively, so it is possible that they may not need to put another tower in that location.

Rick Peo of the City Law Department stated that the bottom line is that the city cannot deny Qwest the right to do business and to provide coverage. Our regulations can only restrict to that extent. The evaluating criteria under our ordinance would be whether they are technologically not able to do their work without this proposed tower--if the Commission finds this tower is actually needed to accommodate their purpose, he believes the Commission would approve the application. The confusing part is that they have kind of given us a mixed story. They've indicated that, but for site 21, they can't do their job correctly but have still been negotiating with Western Wireless and the last correspondence shows that they were maybe going to walk the site last Friday if they didn't get certain information provided as to the lease rates. Thus, Peo does not know what we are looking at for sure. It is conflicting information. Is it really that they can't do proper service or is it just not the best service? We're looking at one-dimensional pictures in that we're looking at what the proposed tower might provide for coverage, but we don't see the rest of their towers as to what coverage they provide and what the gaps might be. Peo does not know if we're seeing a gap in coverage or not.

Peo also advised the Commission that if they should vote to deny, the ordinance requires a written report as to the basis for denial. The Commission's analysis needs to approve the recommendation of the Planning Department, including the staff analysis and all or whatever portions are relevant to be included in that action. Upon a vote to deny, the Commission must affirmatively pull into the record the analysis utilized for that action.

Steward reiterated that the situation from the last meeting to this meeting is that the primary question was the negotiation issue and had they fulfilled all of their opportunities in that regard, as well as discussion about technical aspects. For Steward at this moment, the remaining issue is evidence of the technology and the technical characteristics. Do we have the authority to defer this and get independent technical advice, and do we have the means and resources to do that? Peo believes that the Commission has the right to defer. Dam advised that there is a section in the ordinance that talks about fees and indicates that the applicant is responsible for all fees, including independent assessments that the city may find necessary. It was written so that we could ask for independent analysis if we so desired.

Taylor moved to defer, seconded by Steward. Due to the testimony today from the applicant and staff, Taylor believes this should be deferred for further research. If not deferred, he might want to move to approve. He wants to clear up the confusion.

Steward's basis for opening up this direction is the fact that it is a residential area--it's acreage; this will not likely be the last time that this matter of a number of competitive

towers within a small geographic area comes up; he believes it is an appropriate time for the city to get better information about the technology; and he believes that having an independent engineer assess the information that has been provided is in the best interest of the city.

In response to the comments by Rick Peo, Bazzell submitted that they did have a pre-application meeting with staff either late November or December regarding the new pole. At that time, Dam told Qwest to look into the existing towers, and maybe just put in an application to get all aspects of it, even though the Western Wireless tower was ruled out for technical reasons. The only reason Qwest pursued it is to have a complete application and to cooperate with staff. As far as the independent review from a third party engineer, Bazzell suggested that should be done when the application is submitted. Qwest knew the recommendation was going to be denial. Qwest feels like they keep getting pushed off and pushed off. This could have been handled last month when we submitted an application or in November when we had the pre-application meeting with staff.

Dam clarified that the staff did not hold up Qwest. Bazzell voluntarily agreed to deferral at the last meeting instead of taking a denial, so it was their option. They requested a deferral at the last meeting. At the pre-application conference it was not made clear to Dam that Western Wireless was ruled out for technical reasons and she encouraged Qwest to make a good faith effort to collocate because that is what our ordinance requires. Bayer believes Bazzell did say at the last meeting that they only made application with Western Wireless so that this application did not get stopped and it was a frustration that they had never gotten back to her. Dam pointed out that our ordinance does require that good efforts be made and she emphasized that at the pre-application conference. Bayer believes there is a flaw in our ordinance if we still have to ask them to collocate on a tower that is no good. Dam believes one of the issues is the technical standpoint.

Carlson inquired whether the ordinance provides a specific time frame to ask for independent analysis. Dam stated that the ordinance does not state a specific time frame. Staff disagrees that it should be required at the time of application. Carlson wonders how long it could take and whether it would be appropriate for the Commission to put a time limit on it. It would require the staff to find a consultant. Dam was not sure whether it would require an RFP procedure. And then have the consultant do the analysis. She did not know how long it would take.

Bazzell rebutted that she did not ask for a deferral at the last meeting. Schwinn had asked her whether she would accept a deferral, and she agreed. Today she would not like to accept a deferral. She wants approval or denial.

Carlson did not believe it would be possible to get the information from an independent engineer within two weeks.

Hunter commented that in the past eight months or since these applications for cell towers have been coming forward, we have been looking to the day when we were going to have someone draw their attorney in here and start citing record and verse on what we had to do as far as these towers are concerned. Hunter stated that it is her frank opinion that these cell tower issues are becoming more of an economic issue than they are the concern for the location. What she means by this is that it is much more profitable for the company to have its own lease out to two other carriers than it is to pay leasing fees to someone else and not own the tower. It starts to become an economic issue because the company that owns the tower may want a substantial lease fee that the collocator does not want to pay. That then becomes more of an issue than preserving the visual environment. Hunter feels like the Commission has basically had their hands slapped and told that if we don't approve it then the applicant is going to get legal with it. Hunter does not believe that Qwest has been denied. She does not agree with the insinuation that the Commission has unduly delayed Qwest's applications. She cannot think of one that has been denied. The Commission has tried to be sensitive to make sure that we don't create any more of these eye sores and start creating a whole tower effect in Lincoln, and Hunter believes that is the Commission's job—to try to have as few of these as possible and create collocation in every place that it's available.

Newman would not have a problem with deferral just to let Dam review the new information. However, Newman stated that she would tend toward denial because she believes, collocation or not, there are other places the tower could go that is not within a six block area of acreages. That would be her basis for denial.

Schwinn stated that he is not in favor of deferring this any longer. We need to look at this logically. There was some discussion at the last meeting about the coverage and it was clarified better today. As far as the correspondence still going on with Western Wireless, obviously, if the Commission denies this application, Qwest has no fallback period and we've left them to be held hostage by Western Wireless and they will have to negotiate for lesser service than what the public would demand. Schwinn believes we need this service and it is very important. We're victims of technology. The bottom line is that if they don't want to spend the money, they don't have to. Obviously, this tower is important to them. If we deny this one, maybe they will have to locate one in Belmont. Schwinn will vote in favor and get it moved on. Schwinn pointed out that Qwest has collocated every possible place they can. He believes they have tried their hardest and now they're getting down to their last few hard sites, and this is one of them.

Deferral is not an appealing direction for Steward because it sets in motion the whole circumstance of reporting and complicated reaction by the city. As far as why this technology needs to be proven or disproven, so far in every case, Steward believes that the Commission and staff have accepted the technology presentations of the applicant. It wouldn't matter to him if this was Alltel or any other one as long as it was in this environment with three existing towers. He thinks this company has been better and he

commends the kind of presentations that they have made. However, it seems that the city is at a point where it needs to say, are we being given the factual information? He knows what can be done with computer graphics. He is not suggesting that this has been “cooked”, but he knows that it is entirely possible and it is easy. For his comfort to move forward and continue the process of supporting the ordinance that we have, Steward believes we need some outside opinion.

Taylor explained that the only reason he requested deferral is because he does not want this to be denied. He believes it should be approved. He does not think the cell towers are any worse than the telephone lines we grew up with. This is progress. He believes Qwest has made a good faith effort to appease the Planning Commission.

Bayer clarified that the motion is to defer for two weeks.

Bayer commented that we are having this conversation because the federal government has put regulations on local communities. If we are upset about this, we should write our Congress people and our Senators and say, “stay out of our front yards and stay out of our back yards with towers.” That is why we have this grey area we are talking about today. However, Bayer respects the right of free enterprise to run their business the way business should be run so that they can make money. Bayer has no question about the integrity of this applicant. He is comfortable not having an outside consultant. He will vote against deferral.

Motion to defer for two weeks failed 1-8: Steward voting ‘yes’; Newman, Duvall, Schwinn, Taylor, Hunter, Carlson, Krieser and Bayer voting ‘no’.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

January 24, 2001

Schwinn moved approval, with the conditions as set forth in the staff report, seconded by Taylor.

Newman commented that no one is questioning the integrity of Qwest. She just does not think it is appropriate to have four cell towers within this small of an area. She would like to have seen something at a different site. She will vote against for that reason.

Motion for conditional approval carried 5-4: Duvall, Schwinn, Taylor, Krieser and Bayer voting ‘yes’; Newman, Steward, Hunter and Carlson voting ‘no’.

Note: This is final action, unless appealed to the City Council by filing a letter of appeal

with the City Clerk within 14 days of the action by the Planning Commission.

COMPREHENSIVE PLAN AMENDMENT NO. 94-56
TO ADOPT THE PROPOSED “SOUTHEAST LINCOLN/HIGHWAY 2
SUBAREA PLAN” AND AMENDMENTS ASSOCIATED THEREWITH,
ON PROPERTY GENERALLY LOCATED FROM SOUTH 56TH TO
SOUTH 98TH STREETS, FROM OLD CHENEY ROAD TO
½ MILE SOUTH OF YANKEE HILL ROAD.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: January 24, 2001

Members present: Newman, Duvall, Schwinn, Steward, Hunter, Carlson, Krieser and Bayer; Taylor absent.

Steve Henrichsen submitted three letters in support and a letter from Jeanette Stoll for a change in the subarea plan from special residential to commercial transition at Hwy 2 and Old Cheney.

Proponents

1. Steve Henrichsen of Planning staff advised that over the last three months, there have been several meetings with property owners and several public meetings. The staff memo dated January 19, 2001, and the accompanying color map dated January 16, 2001, proposes 10 amendments to the subarea plan as a result of these meetings. This is a broad overall subarea plan to provide the overall vision for the area, respecting the existing character of the area and yet provide for additional urban residential and commercial uses. This Comprehensive Plan Amendment does not attempt to establish use permit specific type details.

The proposed Subarea Plan provides for an additional 2.1 million sq. ft. of commercial uses at 70th & Hwy 2 and 84 & Hwy 2, in addition to the existing 1.4 million sq. ft. in Edgewood. This is an attempt to accommodate commercial uses while respecting the character of the area. There is a strong connection between land uses and the transportation impact of those land uses. Hwy 2 is an important arterial street for the community but not typical to any other arterial street.

2. Roger Figard of Public Works & Utilities acknowledged the tremendous amount of effort that has gone into the opportunity to compare, coordinate and facilitate between land use and transportation in this subarea plan. In this case, we are confident that the land uses and commercial proposed in this plan can be accommodated by the existing Hwy 2 four-lane corridor that exists today. That is part and parcel of what is being proposed—the use of the existing transportation corridor. There are a number of road improvements in our recently adopted LRTP (Long Range Transportation Plan). Additional lanes on Hwy

2 is not one of those proposed improvements. The goal is to use the existing facilities and design accordingly.

Figard went on to state that with the additional 2.1 million sq. ft of commercial, our transportation model would indicate that the existing Hwy 2 and the four-lane roadway as proposed is at or very close to being at capacity. Hwy 2 is an important, unique part of our overall transportation system—one of the few road networks that comes in from the edge of town. We have the desire and we have the opportunity to preserve higher speed and the limited access functioning that Hwy 2 has today.

Steward noted that about two meetings ago there was discussion regarding the retail designation south of Hwy 2 at the large shopping center area, and it was suggested that the original map presented had only properties north of the highway designated as retail. Henrichsen clarified that the existing Comprehensive Plan does designate the south side. Steward asked whether there has been any reconsideration of the single side rather than having the increased traffic volume potential crossing the highway by having retail on both sides. Henrichsen advised that there have been substantial discussions. The staff is still recommending the commercial uses on the south side; however, the Commission will hear today some serious question from the residents of Cheney as to how the commercial use on the south side will impact the access to Cheney along 91st south of Hwy 2. That issue of access to Cheney is one that should be addressed before any zoning action on the south side of Hwy 2.

Newman asked whether there are any plans for improvements to 98th Street. Figard advised that there are improvements ultimately shown on 98th Street, but planning the use on Hwy 2 would indicate very near capacity with the buildout in a 25 year period. 98th Street in the area of this subarea plan would be shown as a two-lane rural type road from Old Cheney Road north up towards Hwy 6, but in the two-mile area south down around Yankee Hill Road, the LRTP suggests four thru lanes, etc.

Public Comments

1. Kent Seacrest appeared on behalf of **Andermatt L.L.C.**, landowner and proposed developer of the large commercial regional center at 84th & Hwy 2. Kelvin Korver started the land acquisition on this project in 1987. While the subarea plan is new, this has been an ongoing process for many years. There are four other property owners in the red designation currently in the 1994 plan, often times dubbed the “edge city plan”.

In 1994, the view was that Lincoln was under-retailed and having tremendous leakage of shoppers. We also were seeing in this period of time that south Lincoln was terribly under-retailed, and this was causing way too many trips from south Lincoln to north Lincoln, putting tremendous pressure on 13th, 27th, 48th, 56th, and 84th Streets. The question is whether you take one big area to get the retail solved, or do you do multiple areas of

retail? Seacrest submitted that the bigger site is better than the smaller sites because it generates less retail stripping opportunities. One bigger site allows a better multi-modal transportation system. The bike trail is easier, the bussing is easier, and you can plan your road network easier. The big site is easier to master plan than a bunch of small sites. There is more opportunity to do the neat amenities like lakes and the preservation of tree masses and wetlands, and the big site is more affordable.

Seacrest also submitted that the bigger site avoids the Edgewood/Gateway problem where the road networks don't get planned very well. We start at one size and we have to grow them. The point is that by doing a big site, we have room to expand; we have room so that we don't have to pretend that we're not going to grow in the future. We can do it right the first time. The bigger sites create more opportunity for critical massing, drawing more dollars into our community.

Seacrest then reviewed past history. In about 1990, then Planning Director Tim Stewart and Mayor Johanns opened up retail in Lincoln, and it has continued. Property taxes during that period of time have grown a little bit, but sales tax has increased 90%. We have grown this community off of sales tax. We have kept property taxes reasonable because of sales tax, by attracting retail. The Andermatt site was declared the big site. It was chosen because this is the only corridor that is 200' wide in this community. It was chosen because Lincoln is growing south and east. It was chosen because we thought that it was in close proximity to Stevens Creek which we think will open some day, and we saw it as an opportunity so that all of south Lincoln didn't have to go through the neighborhoods to shop.

Where do you put four boxes in South Lincoln today? It would be very difficult because of the acreages and sewer lines.

The Andermatt site was approved with Exhibit E, requiring transportation studies, environmental studies, and infrastructure studies. The Plan also said in 1994 that we needed to assume 1.9 million sq. ft. for the next 20 years. We can generally plan transportation for about 20 years, but land use should be planned for longer, like big shopping centers, because they are going to grow and be dynamic.

Seacrest's point is that they are now in a situation where they have worked with the neighborhoods. They have helped Pine Lake move a power line at hundreds of thousands of dollars; they have come in with a transportation solution; Seacrest came in with a subarea plan in September, and his client is the one that is doing it pursuant to the 1994 plan. Seacrest believes that five million sq. ft. is crazy. He had proposed three million sq. ft. What is in front of the Commission is a result of staff not liking the 1994 vision anymore. Seacrest was attempting to point out that his client has planned for seven years off that vision and spent hundreds of thousands of dollars for the transportation studies that they are being told are no good because that is not the vision anymore. Seacrest tried to work

with the staff on their vision for three months. The problem we're having is that we are not able to get the sq. ft. to work at the entrance points.

For example, Seacrest indicated that they have told staff they will do the staff's plan under certain conditions, and one of the most critical conditions is the entrance off of 87th Street. This center needs a front door. Andermatt has not reached agreement with the staff on adding that entrance to the subarea plan. Therefore, Seacrest requested a two-week delay to work with the staff on that entrance and other conditions. Maybe it's a four week process. They spent so much time arguing 87th Street that they have not had time to dialog the rest of the conditions.

Hunter inquired as to the impetus for the change proposed by staff. Seacrest believes it is traffic. The staff would like to keep Hwy 2 four-lane and assume that their LRTP is the plan. Their feeling is that the transportation plan that they showed in October is supporting 1.9 million sq. ft., and Seacrest is saying that is okay for 20 years, but we don't want to repeat the Gateway/Edgewood experience.

Steward asked whether Seacrest is amenable to considering the cross-Hwy 2 question and the Cheney question. It seems that if we're building a center to grow that we need another secondary transportation system – it's not just Hwy 2. The issue is going to be how traffic in and around the site is carried and dispersed. Steward wants some other discussion on the south property.

Seacrest believes it is best to disperse the traffic in all directions. The 87th Street entrance is important because the retailers are going to want to orient to Hwy 2. That's their front door. They want a left turn/full turn movement for Cheney. This is one of the issues that he needs to work on with the staff and Cheney.

Schwinn noted that the Commission has stacks and stacks of letters from people that are close to this area that feel they are left out of decisions that are made concerning their property, and then there is the whole factor of Cheney. What efforts have been made to bring everyone together? Seacrest's response was under Exhibit E, his client was supposed to drive the train and that is what they did. Back in September, Seacrest told staff that he would run a public process and they started off inviting 1200 people to a meeting. Shortly thereafter, the staff felt they should turn this into their effort and they came forward with their plan. When that happened, it became staff's process. Seacrest has been working with staff and privately with as many neighbors as possible. It has been a "multi-chef" process.

Henrichsen also advised that the staff has had several meetings – some to focus on specific issues and some to talk about the plan as a whole. Henrichsen went to Cheney in November; had two meetings with Pine Lake residents; had a separate meeting with property owners on the south side of Hwy 2; has had lots of different phone calls and

individual meetings including Country Meadows, Pine Lake and Cheney. This is a very large area and there are a lot of issues. Not all issues have been resolved.

*** 10 minute break ***

Duvall moved to defer for six weeks, with continued public hearing scheduled for March 7, 2001, seconded by Schwinn.

Duvall's comments were that we're talking about the Comprehensive Plan and a Subarea Plan – there's been a huge amount of work on this and it is so complex and large. There has been a lot of effort on both sides to come together. We're getting down to the short stretch where we need to iron out the details and put them in place and a little bit of time can give both sides time to work together to reach agreement and take care of some of the details.

Steward believes that in some ways our subarea planning efforts are more important than the Comprehensive Plan. They have to have a relationship to comprehensive planning or else we should not be doing them. We are in the process of beginning the procedure of updating the Comprehensive Plan. We are at a pivotal time with a project this large that there should be more deliberation about what the cause and effect relationship between this and our next step in a larger way ought to be. He is in favor of being much more deliberate.

Hunter is in favor of deferring because she does not think the homework has been done to look at the long terms effects of creating the type of environment on both sides of Hwy 2 that has been proposed. She is drawing from 17 years experience in super-regional shopping center business and her own experience is that this type of plan needs to be looked at a lot harder because we could be almost shackling ourselves with a great idea that is not implemented the way that it should and could be—a long term impact that has got to be looked at in terms of the vision and the ultimate effect from doing retail development. She wants to take people back to the drawing board and talk about what the whole effort was supposed to be and not create something that we have to fix later.

Motion to defer for six weeks carried 8-0: Newman, Duvall, Schwinn, Steward, Hunter, Carlson, Krieser and Bayer voting 'yes'; Taylor absent.

Bayer then requested that those wishing to testify bring their issues forward rather than a full debate, and staff will address those issues in the next six weeks.

2. Bevan Alvey, testified as **President of Pine Lake Association**, stating that he went through the unpleasant experience of the zone change at 70th & Hwy 2. To the contrary he has gone through a very good process in working up to this point with regard to this plan. Steve Henrichsen has been tremendous in terms of his efforts to involve the

neighborhoods and to work with them. Alvey feels really good about what the staff has done to incorporate the needs of Pine Lake into the plan. There are still some areas that need work, but by and large the Pine Lake Association supports the process and the product.

Alvey reported that Pine Lake has also worked extensively with the Andermatt people—Seacrest, Korver and their staff—and they have been extremely helpful, very forthcoming, and very accommodating to the concerns of Pine Lake about the traffic. Pine Lake is at the intersection of 84th & Hwy 2 and that is ground zero for whatever comes out of this project. Andermatt has also made efforts to communicate with and involve the neighborhoods.

Alvey stated that Pine Lake still has concerns about what's going to happen. The traffic concerns are significant. There is a need to look at the assumptions being used in the traffic studies. The south and eastern beltway are assumed to be completed as part of a long range plan. This needs to be kept in consideration as this goes forward.

The Pine Lake Association strongly supports the concept of all of the commercial development being in the Andermatt project. This avoids strip zoning. Of course, Pine Lake's best desire would be that the property remain as cornfields, but that is not going to happen and they understand and do not oppose that.

The Pine Lake Association strongly supports orienting the project to Hwy 2. They do not want it oriented toward 84th Street.

The Pine Lake Association supports the concept of having traffic flowing into the development from all directions. They are very concerned about 84th being the primary entrance for fear that it will cause extra buildup of traffic on 84th Street, running next door to Pine Lake. It makes good sense that there be a front door and a facing to Hwy 2. A full access entrance on 87th Street makes sense.

The Pine Lake Association wants to keep their options open in case the traffic studies are wrong. They want to make sure that their neighborhood does not provide shortcuts to avoid traffic.

Hunter asked why Pine Lake would oppose the predominance of this being on the north side of Hwy 2 versus the split. Alvey did not have a position on that. Their concern is that they do not want the shopping center oriented towards 84th as opposed to Hwy 2. If it is oriented towards Hwy 2, the big boxes are oriented away from Pine Lake. If oriented toward 84th Street, it would add traffic to the Pine Lake neighborhood. Pine Lake does not have a position on whether it should be on both sides of Hwy 2.

Alvey advised that they did have a series of meetings with the entire association. The 87th

Street issue did not come up until after their last neighborhood meeting. But he knows for sure that they would support anything that will minimize and spread out the traffic.

3. Gayle Hanshaw, President of Cheney Community Improvement Program, submitted his testimony in writing. The Cheney CIP is in support of the proposed shopping center at 84th & Hwy 2. They have had numerous community meetings; however, no formal response has been received in regard to their October 20, 2000, letter. Hanshaw does not see evidence in the plan of Cheney's number one concern-- entrances into the Cheney community. Why is something so important as the entrance to Cheney not addressed in the subarea plan? Cheney is concerned about losing the capability to turn south off of Hwy 2 at the proposed intersection with Yankee Hill Road and then turning left at 91st Street to come into Cheney. They want a continued permanent left turn into Cheney. Approximately 20 individuals stood in the audience in support of Hanshaw's testimony. The community of Cheney believes that there are viable options and they are working on formalizing those options for presentation to the Planning Commission.

The community of Cheney also believes the traffic load on the Hwy 2, Yankee Hill Road and 91st Street intersections can be lessened with construction of an access to the proposed shopping center at 87th Street.

The Cheney SID supports annexation, but there are multiple issues that need to be addressed, i.e., SID, water, fire, school. Brian Carstens has been retained to assist in formalizing options for entrances to Cheney.

4. Christine Kiewra, 6400 So. 66th, President of Country Meadows Homeowners Assn., agreed with Bevan Alvey's testimony. Country Meadows Homeowners Association is in support and is positive about the process. Things have changed because the city has not followed the Comprehensive Plan. Home Depot at 70th & Hwy 2 added significant commercial space and Edgewood has been expanded three times. This subarea plan is crucial for the Country Meadows neighborhood to protect them from the strip retailing of Hwy 2. This is an important entryway; it is a Capitol View Corridor; there is adequate regional and neighborhood shopping in the area; other arterials in the area are at capacity; if you change any part of this plan to increase commercial space, it will cause the widening of Hwy 2, which will be a disaster.

With regard to the Shopko parcel at 60th & Hwy 2, Kiewra suggested that if that designation was changed to commercial, it would need to be a big box commercial. What the Planning staff has said is that if you change a large parcel it turns into big box commercial. It seems clear that it is an effort to sell the land for a higher price.

With regard to the property located at 66th & Hwy 2, at the entrance to Country Meadows, Kiewra pointed out that the proposal includes seven office buildings on a small site adjacent to low density housing. The Country Meadows neighborhood is unanimous that

there is no way 66th Street can handle any commercial traffic. There should be no commercial at this site.

With regard to the Rogge property at the northwest corner of 70th & Pine Lake Road, designated as special residential, Kiewra noted that this is a change from the “residential transition” term used in the subarea plan. Country Meadows believes that the residential transition fits in nicely with the area; there are churches on two sites. They recognize that the three acres will not likely develop as one residence so Country Meadows supports any residential use deemed appropriate.

Kiewra requested that the Commission support this proposal unanimously and send a message to the public that this an important entryway into our city.

Schwinn asked whether Country Meadows has discussed the 87th Street entrance. Kiewra stated that they had not. However, they do want the Andermatt project to be very successful and to encapsulate all the commercial in that area so they would support whatever they need to do. Country Meadows agrees with the 1.9 million square feet which puts the area at capacity on Hwy 2. Country Meadows does not want Hwy 2 widened.

Kiewra’s testimony in support refers to the Subarea Plan map dated January 16, 2001.

5. Mark Hunzeker appeared on behalf of **Chuck and Linda Spanel and Spanel Engines, Inc.** They live in Cheney, next to their business on 91st & Yankee Hill Road. They are very concerned about the access into Cheney. As previously expressed, a permanent long term left turn access into Cheney is very important to the Spanels and their business. They are very supportive of that and want to be sure that it is taken into consideration, not just for the convenience of people of Cheney but because of the design of the relocated Yankee Hill Road. The angle which Yankee Hill Road takes across the section from existing Yankee Hill Road over to 91st and Hwy 2 is critical for the distance provided for left turn access into Cheney and stacking and maneuvering into the village. They also support Hwy 2 access for the Andermatt property. This is important to alleviate traffic at the intersection of Hwy 2 and 91st. They are strongly in support of the inclusion of Cheney within the Future Urban Area and annexation at the earliest possible date. They are near capacity in the sewer.

Hunzeker urged that Public Works and Planning be asked not to be bound by the existing right-of-way that has been acquired for the relocated Yankee Hill Road. It is easy to let the design of that road get boxed in because someone went out and bought the right-of-way. It doesn’t have to be used and it can be traded. Some of the commercial uses could be flipped to the east side of Yankee Hill Road to provide uses for Cheney and to facilitate relocation of the road.

6. Linda Spanel, 8440 So. 91st, in Cheney (but her mailing address is Lincoln) testified

on behalf of the **Board of Officers and Trustees of SID #5 in Cheney**. It has been the express opinion of all board members that strong consideration be given to annexation of the Village of Cheney. SID #5 has reached maximum capacity for hookups to the sewer system and there will be no new growth available until such time as annexation occurs. With Lincoln planning new service boundaries, the Board believes annexation would benefit the community. Cheney is proud of its community and wants growth to be successful. They have met with the Planning Department regarding annexation. To make them wait until 2005 to be annexed would be a disservice to the community. Cheney wants to have input into how Cheney will be included in the big picture. "Don't exclude us, include us".

7. Brian Carstens agreed with the Hunzeker and Hanshaw testimony. He has been retained by the Cheney SID and they are hoping to come forward with transportation solutions at Hwy 2 and 91st in the next six weeks, and expand the idea of looking at the triangle north of 91st.

8. Father Dawson has spent the last 40+ years in Lincoln as a priest and at his 70th Birthday he asked the Bishop for a smaller assignment and he chose St. Michael's in Cheney. Father Dawson thanked the community for working together so well. He also expressed appreciation to Kent Seacrest for his concern for Cheney and to Steve Henrichsen for saying that the plan is respecting the present area. The small towns have something to offer to people. He is grateful for the Commission's patience. It is so important that this little community not be forgotten. The community has talked about annexation and it was wonderful to see almost 100% stand in favor of annexation to the City of Lincoln.

9. Jeanette Stoll appeared on behalf of **Bonnie Shaffer and Ernest Sterzenegger**, owners of property at Hwy 2 and Old Cheney Road, and the property owners to the east, **Lloyd Johnson**. Their property is now designated for "special residential" but are requesting it be changed to the "commercial transition" designation. They do not believe that the special residential use or any sort of residential use is appropriate on this intersection of Hwy 2 and Old Cheney Road. Stoll understands the city's need to protect the Hwy 2 corridor, but the commercial transition use would be appropriate and would serve as a true transition. The proposed use would be simple office use, low intensity, maybe a financial institution. They have been working with Planning and Public Works with regard to future planning for the site.

Steward asked why this request is justified as compared to any other property owner facing Hwy 2. Stoll's response was that her clients' property is on the edge of this whole subarea plan. As you look further west, it is incredibly dense commercial development. It is not a good place to have a home right now, with Edgewood, the Trade Center and Heritage Park. Their property is right across the street from big commercial development.

Bayer referred to R-T (Residential Transition) zoning—is that what you are looking for? Stoll stated that they are actually looking for O-3 for part and R-T for the back side. They would prefer the office designation for the entire parcel but understand the need for transition.

Schwinn asked whether Stoll has met with the neighbors. Stoll advised that it has been a rush project at this point and she has not had the opportunity to sit down with the neighbors. She has had conversations with the closest neighbors and she will be meeting with them this weekend.

10. Bill Rentschler, Cheney, stated that everyone has been in support of the subarea plan close to Cheney. If you really look at Hwy 2 being the main entrance to this project, it puts Cheney at ground zero. Cheney has met with representatives from Planning and with Andermatt, but they have not met nearly as much as some of the other areas. “Don’t box us out.” As we’re looking toward annexation over the next year or two, we are behind the ball in terms of development in this area. Annexation for Cheney can be a tremendous opportunity for the community, but please keep in mind that this area in Cheney may need some special consideration as we go through this process.

Steward confirmed with Rentschler that Cheney is interested in annexation. Steward suggested that Rentschler and the Cheney community may want to spend this next six weeks productively thinking about how they are going to retain their identity and the community, and what may need to be changed in this subarea plan to support that. Cheney needs to think in the future just as this subarea plan is trying to project for Lincoln in the future. Rentschler’s response was that Cheney does not want to lose its entrance into the community. Beyond that, they cannot project out the next few years because Cheney would not develop in the next few years if it weren’t for the Andermatt project and the things around Cheney. When you paint that orange picture with the urban residential, you’re looking at one developer being able to develop north and west, and you’re looking at multiple developers trying to put in the infrastructure. Cheney wants to encourage that and work with the developer.

11. Mark Hunzeker appeared on behalf of four clients.

Hunzeker represents Glen Herbert, owner of the parcel at the northeast corner of 84th & Pine Lake Road. The proposed subarea plan would relocate Pine Lake Road and 84th Street in such a way as to cut off slivers of his land along 84th and Pine Lake Road and include a fairly significant chunk of his land on the south side of Pine Lake Road within the area that is proposed for development by Andermatt. The green color on most of that land is bothersome--parks and open space. Hunzeker would like to have it clarified that if that Pine Lake Road relocation takes place, Herbert will be allocated a prorata share of

whatever commercial square footage is designated. He does not necessarily want the green to be red, but at least some text to indicate that some amount of commercial space is allocated to the property being cut off by relocation of that road.

Hunzeker also represents two landowners in the triangle between Hwy 2, 84th Street and Pine Lake Road, i.e. Hampton Development Services, the Seventh Day Adventist Church, and Stan and Grace Portsche. These clients have also spent a lot of time over the past several years meeting with Andermatt and the Pine Lake neighbors in discussing the relocation of 84th Street, relocation of the access into the Pine Lake area and the potential for vacating a portion of existing Pine Lake Road to get a new access into Pine Lake and to serve "this area" (pointing at the map) in the fashion shown in the subarea plan. Hunzeker submitted that it is not a 25 year plan to regard that property as residential. They have discussed it not only with Andermatt, but with Pine Lake for quite some time and have most recently discussed office. Hunzeker believes it is realistic to take that position. The Portsche's have a particularly strong argument on that front and the property along Hwy 2 is not likely to become any sort of single family or other low density residential.

Hunzeker also represents St. Elizabeth Hospital which owns the 70 acre parcel "right here" (pointing to the map). That property was purchased by St. Elizabeth to build a new hospital. However, they are not intending to do that at this point. St. Elizabeth would like to have a medical office complex. Hwy 2 is not an area that is likely to be low density residential. They simply want to have a reasonable designation of urban uses on this parcel.

In general, Hunzeker believes that although there has been a good effort to make contact by staff with all the people involved, it is time to go back now to a point where you have everybody involved in the meetings. It has been his experience in meeting with several of the property owners and others involved in this process, that people are coming away from meetings with the city personnel with different understandings of what it is that is being proposed and the reason therefor. It is important that those people all get the same information at the same time. The only traffic information is now being generated by Andermatt, but it's time to start getting that information available to the public. Hunzeker believes that it is a mistake to drive the land use plan by making the assumption that the single largest right-of-way you own will always be a four-lane facility. We're talking about a 25 year plan, and if we assume Hwy 2 will be a four-lane facility for all 25 years, Hunzeker thinks we are making a very big mistake, like was done in 1977 when Lincoln assumed away its traffic problems and assumed away the need to build and/or improve existing streets by assuming that we were going to start car pooling and riding buses. We have never approached the 1.75 person per vehicle assumption. You cannot assume "no increase in traffic on Hwy 2". Hunzeker urged the Commission to think about the practical side of land use along a highway like Hwy 2. The fact is that Hwy 2 will carry a substantial amount of truck traffic. It will not be a desirable place to go and build a house. If you

assume too much in terms of commercial development at this site, the worst that can happen is that it won't develop as fast as we thought. If you assume too little as we did at Edgewood, you get unplanned type commercial because it happens in increments and is approved in ways that are not planned. If you assume more, you have an opportunity to have lower intensity development as it occurs and an opportunity to make it better, but if you assume too little you'll end up being crowded. Hunzeker urged the Commission to think more expansively.

Hunter confirmed that the 1994 plan is what Hunzeker is thinking with all the commercial on the north side. Hunzeker does not think the 1994 plan includes the area south of Hwy 2 that St. Elizabeth controls. It probably shows the area west of 84th as being some sort of residential. It makes some sense to expand the size of the commercial area on both sides of 84th Street, but there is no point at this time to constrict the size of the commercial designation on the east side either. We're here to say "think a little bigger on a longer term".

Steward fully agrees that we should not always plan for Hwy 2 to carry the level of traffic that it currently carries. The vision he has heard no one talk about is protecting that corridor at its face and edge, both for right-of-way and against commercial development. If you travel west beyond this area of the subarea plan, there is single family residential and nothing else except for buffered green and trails. There will be no problem for expanding the roadway. We will not have strip commercial in those areas partly because of the geography of the land. Here we have the opportunity to get the kind of traffic volume you want but it is incorrect to think that we should. We have heard appeals from property owners from the west and east that say, "but my property needs to be commercial". Somewhere along the way the city is going to have to say, "this is the plan and this is what we're going to protect". Hunzeker responded that all he was saying is that we have Edgewood and Hwy 2; 56th and Hwy 2; and 56th and Old Cheney--the demand for commercial use at those kinds of locations will always exceed the demand for residential use at those kinds of locations. The good things that are shown on this plan anticipate the relocation of some of the roadways to accomplish many of the good things on the map, but without some of the incentives that go with the assumptions that underlie those agreements, they may be very difficult to implement.

12. Charlie Humble appeared on behalf of the **Mid-American Conference Association of Seventh Day Adventists**, owner of property on the corner of 84th & Pine Lake Road. One very big issue for his client is that they have not found themselves fitting into any of the groups that have been meeting. They have met with individual parties, but that has created some of the difficulties. Humble thought the process had a nice start last fall when everyone met under the auspices of Andermatt, but then it fell apart. In the next six weeks, we need to get this process going.

Humble explained that 84th Street is an issue to the Association. If that is the front door

of Andermatt, it is a problem for the Association with regard to traffic. Other access points would be more acceptable.

Humble also noted that the Andermatt submittal described the area around his client as being low density, O-3 office. The Association is an office user on 11 acres and the campus is turning into a nicely maintained private park. The Association is looking many years into the future and felt comfort with a low density, well landscaped, buffered O-3 solution surrounding it. But, they have much less comfort if it turns out to be apartments. The Association is worried about the low density residential designation. They are more than willing to work on the relocation of 84th Street, but hoping to wind up with some additional campus space rather than park or open space.

13. Stan and Grace Portsche, owners at the corner of 84th & Hwy 2, presented their testimony and submitted a letter which was given to the Planning Department in November. The Portsche's own 3.68 acres at the northwest corner of 84th & Hwy 2. In 1989, 1.61 acres was taken by the state when 84th Street was realigned and widened. When the Comprehensive Plan was put in place in 1994, the Portsche's were verbally assured that after the shopping center was approved they would be able to get commercial zoning. Now Andermatt is opposed to the Portsche property being designated commercial. The staff has recommended that the triangle be zoned urban residential. The Portsche corner is not suitable for residential zoning. The Portsche's are Realtors and know this corner is not feasible for anything but B-2 or commercial zoning. They have brought sewer to this area. Water is now in place. They have had offers to purchase but have not accepted because they wanted to assure buyers of proper zoning and infrastructure.

Commercial zoning and good road access are the issues. The Portsche's also own 3 acres on the south side of Hwy 2 across from the Southeast Fire Station. They want the cut in the island on Hwy 2 to remain. They believe they fit into the grandfather clause.

This application will have continued public hearing on March 7, 2001.

There being no further business, the meeting was adjourned at 5:45 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on February 7, 2001.

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